

EILEEN M. DECKER
United States Attorney
LAWRENCE S. MIDDLETON
Assistant United States Attorney
Chief, Criminal Division
GREGORY W. STAPLES (Cal. Bar No. 155505)
Assistant United States Attorney
United States Courthouse
411 West Fourth Street
Santa Ana, California 92701
Telephone: (714) 338-3535
Facsimile: (714) 338-3523
E-mail: greg.staples@usdoj.gov

Attorneys for Plaintiff
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTONIO MARQUETTE,

Defendant.

No. CR 15-154-AG

GOVERNMENT'S SENTENCING POSITION;
DECLARATION OF SPECIAL AGENT BRAD
HOWARD

Date: January 30, 2017

Time: 2:30 p.m.

The government submits its sentencing position.

/s/

January 6, 2017

DATE

GREGORY W. STAPLES

Assistant U.S. Attorney

1 **I. INTRODUCTION**

2 The government has no objections to the findings in the PSR.
3 The government agrees with Probation's recommendation of 70 months in
4 custody, restitution in the amount of \$1,551,500, three years of
5 supervised release, and the other conditions recommended by
6 Probation.

7 **II. BACKGROUND**

8 Defendant is before the Court after conviction at trial of ten
9 counts of mail fraud and one count of money laundering. In 2010 and
10 2011, defendant defrauded victims by offering to eliminate or reduce
11 their mortgages for a fee. PSR ¶ 9. Defendant charged between
12 \$36,000 and \$110,000 or more for his services. *Id.* Defendant
13 guaranteed the mortgages would be eliminated or reduced. PSR ¶ 10.

14 In fact, as victims testified at trial, no one had their
15 mortgages eliminated or reduced as a result of defendant's efforts.
16 All but a few lost their homes and had their credit ruined because
17 defendant had told his victims to stop making their mortgage payments
18 and to not speak with their lenders. None of the victims recovered
19 any of the money they paid defendant.

20 In all but a few instances, defendant accepted only cash from
21 his victims. See Declaration of Brad Howard ¶ 5, attached herein.
22 The total known loss in this case is \$1,551,500. *Id.* at ¶ 9. The
23 loss amount is based on statements provided by victims to the case
24 agent, which was corroborated in a few instances where defendant
25 accepted payment by check or wire. *Id.* at ¶¶ 6-8. Also, it is the
26 recollection of government counsel that each victim testified during
27 trial as to the amount on money each gave to defendant.

28 /////

1 **III. GUIDELINES CALCULATIONS**

2 Probation calculates the Guidelines using section 2S1.1(a)(1)
3 for money laundering as it results in the highest offense level. PSR

4 ¶ 20. The calculations pursuant to § 2S1.1(a)(1) are as follows:

5	Base Offense Level:	7	U.S.S.G. § 2B1.1(a)
6	Loss > \$1.5 million:	16	U.S.S.G. § 2B1.1(b)(1)(I)
7	More than 10 victims:	2	U.S.S.G. § 2B1.1(b)(2)(A)(i)
8	Money laundering conv.:	<u>2</u>	U.S.S.G. § 2S1.1(a)(1)
9	Total Off. Level:	27	

10 Defendant is in criminal history category I. PSR ¶ 35. The
11 resulting sentence range is 70 to 87 months. Probation recommends a
12 sentence of 70 months. For the reasons set forth below the
13 government agrees with Probation's recommendation.

14 **IV. SECTION 3553 FACTORS**

15 The offense here was serious, measured both in the loss of money
16 and homes, and the emotional impact on the victims. Several of the
17 victims did not want to testify as they did not want to revisit a
18 painful episode in their lives. Howard Dec. ¶ 11. As the victims
19 testified a trial, they trusted defendant, who consistently refused
20 to provide the victims any copies of the documents they signed. Some
21 victims testified that they did not believe a fellow Vietnamese-
22 American would cheat them. Other victims testified that defendant's
23 professed religious faith gave them added trust. A sentence of 70
24 months reflects the serious nature of the offense in terms not only
25 of the monetary loss, but also lasting emotional impact of the
26 crimes.

27 A sentence of 70 months is also warranted to promote respect for
28 the law and provide a just punishment. Defendant took more than \$1.5

1 million in cash from his victims and guaranteed to resolve their
2 mortgage problems, only to leave them in a much worse position than
3 they were in before: lost homes, ruined credit, empty savings
4 accounts, and debts to friends and family members. A 70-month
5 sentence also protects the public from more crimes by the defendant,
6 and may deter others from engaging in such conduct.

7 A 70-month sentence is also consistent with that given to
8 similarly-situated defendants; i.e., defendants who do not accept
9 responsibility for their conduct, cause more than \$1.5 million in
10 loss, and are convicted of money laundering as part of their fraud
11 scheme. The government agrees with Probation's assessment that the
12 Guideline range adequately accounts for the nature and seriousness of
13 the offense, and defendant's minimal criminal history.

14 Recommendation Letter p. 4. The government also agrees there are no
15 factors in mitigation that would warrant a departure from the
16 Guidelines range. *Id.*

17 **V. CONCLUSION**

18 For the foregoing reasons, a sentence of 70 months, restitution
19 of \$1,551,500, and three years of supervised release should be
20 imposed, along with the other conditions recommended by Probation.
21
22
23
24
25
26
27
28